

REMARKS

Claim 1-10 remain in the application.

The thermoelectric device is shown in the drawing at 41 and recited in the disclosure at page 4, lines 19-22.

Figure 2 has been corrected herewith to properly designate the standpipe as 46 and the bag as 42.

Claims 1-4 and 6-9 stand rejected over Seigle et al. '146 in view of Telesz et al. '842.

In accordance with the subject invention a heat transfer jacket surrounding the A/D with an independent heat transfer media therein that is independent of the refrigerant in the system.

The Examiner admits that Seigle et al. do not disclose a combined A/D. Telesz merely discloses the system admitted by applicant to be old and well known. In other words, the subject invention is to employ the independent heat transfer media around the A/D in the known system.

There is no suggestion whatsoever to employ the claimed heat jacket surrounding the A/D in the air conditioning system claimed.

Rejections based on 35 U.S.C. § 103 must rest on a factual basis. *In re Warner*, 379 F.2d 1011, 1017, 154 USPQ 173, 177-78 (CCPA 1967), *cert. denied*, 389 U.S. 1057 (1968), *reh'g denied*, 390 U.S. 1000 (1968). In making such a rejection, the examiner has the initial duty of supplying the requisite factual basis and may not, because of doubts that the invention is patentable, resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in the factual basis. *Id.* In the present case, the examiner has advanced undue speculation, rather than objective evidence, as to the scope

Appln. No.: 10/602,380
Request for Reconsideration
Reply to Final Office Action of September 24, 2004

IN THE DRAWINGS

The attached drawing sheet includes changes to Figure 2. The attached replacement sheet includes Figures 1-3, and it replaces the original drawing sheet previously filed for Figures 1-3.

Attachment: Replacement Sheet

Appln. No.: 10/602,380
Request for Reconsideration
Reply to Final Office Action of September 24, 2004

and content of what is purported to be common knowledge in the art. The examiner's unsupported assertions in this regard do not constitute evidence. *In re Lee*, 277 F.3d 1338, 1344-45, 61 USPQ2d 1430, 1435 (Fed. Cir. 2002). In short, the appealed rejection is unsound because the only evidence offered in support thereof, the Jacobson reference, does not contain any teaching or suggestion which would have motivated one of ordinary skill in the art to modify the brake pedal assembly disclosed therein so as to arrive at the pedal assembly recited in independent claim 1.


Furthermore, there is absolutely no suggestion in the three references to use a thermoelectric device in the channel system.

Accordingly all of the claims are now presented in condition for allowance, which allowance is respectfully solicited. Applicant believes that no fees are due, however, if any become required, the Commissioner is hereby authorized to charge any additional fees or credit any overpayments to Deposit Account 08-2789. Further and favorable reconsideration of the outstanding Office Action is hereby requested.

Respectfully submitted

HOWARD & HOWARD ATTORNEYS, P.C.

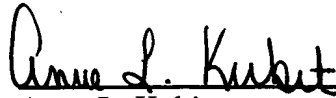
Nov. 23rd, 2004
Date


Harold W. Milton, Jr., Registration No. 22,180
The Pinehurst Office Center, Suite #101
39400 Woodward Avenue
Bloomfield Hills, Michigan 48304-5151
(248) 723-0352

Appln. No.: 10/602,380
Request for Reconsideration
Reply to Final Office Action of September 24, 2004

CERTIFICATE OF MAILING

I hereby certify that this **REQUEST FOR RECONSIDERATION** for U.S. Serial No.: 10/602,380 filed June 24, 2003 is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on _____
Nov. 23rd, 2004.



Anne L. Kubit

HWM/alk
G:\D\Delphi Patent\IP00221\PATENT\Request for Reconsideration.doc